

7 FAM 1720

CHILD ABUSE OR NEGLECT

(CT:CON-102; 02-27-2005)
(Office of Origin: CA/OCS/PRI)

7 FAM 1721 SUMMARY

(CT:CON-102; 02-27-2005)

- a. Allegations of child abuse or neglect should be taken seriously. These cases must be approached urgently but dispassionately, and with deliberation and discretion. Consular officers should carefully review this section before taking any action in suspected cases of child abuse or neglect, in which either the alleged perpetrator or victim is a U.S. citizen/national. The Office of American Citizens Services and Crisis Management (CA/OCS/ACS) is the action office in the Department of State for child abuse and neglect issues concerning private U.S. citizens/nationals abroad. CA/OCS/ACS and the Office of Children's Issues (CA/OCS/CI) coordinate closely in parental child abduction cases involving possible child abuse or neglect. The role of consular officers in protecting children is recognized in the Vienna Convention on Consular Relations (VCCR), see 7 FAM 1722 Authorities. For questions about emergency action such as requests for temporary refuge, see 7 FAM 180.
- b. **Privacy Act:** The privacy of any U.S. citizen/national or legal permanent resident should be respected and protected and that any action taken must occur within legally established parameters.

(1) **The Child.**

- (a) The Privacy Act covers all U.S. citizens/nationals and lawful permanent residents (LPR's), including minors. As a general matter, information about a minor may be released to the minor's parent(s). Section (h) of the Privacy Act – Rights of Legal Guardians – provides:

5 U.S.C. 552a(h)

"Rights of legal guardians: For purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the

individual."

- (b) Parents, however, do not have an absolute right to the information under the Privacy Act and the wishes of the minor may, in some cases, override those of the parent(s). The OMB Privacy Act Guidelines note that subsection Section (h) of the Privacy Act is "discretionary and that individuals who are minors are authorized to exercise the rights given to them by the Privacy Act or, in the alternative, their parents or those acting **in loco parentis** may exercise them in their behalf." OMB Guidelines, 40 Fed. Reg. at 28,970; see also OMB Guidelines, 40 Fed. Reg. 56,741, 56,742 (1975) (noting that "[t]here is no absolute right of a parent to have access to a record about a child absent a court order or consent").
- (c) In the context of this subchapter, the explicit wishes of minors must also be respected. Normally, if you have been advised by a minor age 14 or older that he or she does not want any information released to parent or guardian, you should honor those wishes absent the presence of compelling circumstances affecting the health or safety of the minor child. Bring the matter to the attention of CA/OCS/PRI immediately and we will provide an advisory opinion on a case-by-case basis.
- (d) Department approval is required before disclosure is made to the parent(s) in certain cases, such as where the minor has indicated that the information not be disclosed or where disclosure could jeopardize the safety and well-being of the child. Accordingly, you should obtain prior approval from CA/OCS/PRI **before** releasing any information regarding a runaway under the following circumstances:
 - There are signs of abuse, and reason to believe a parent or other household member is the abuser
 - The minor indicates he or she does not want information released to the parent
 - There is credible concern for the minor's safety

(2) **Health and Safety Exception to the Privacy Act.**

- (a) The Privacy Act's "health or safety" condition of disclosure is the one most relevant to U.S. citizen/national minors in overseas Behavior Modification Facilities. It provides ...

5 U.S.C. 552a(b)

"No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior consent of, the individual to whom the record pertains, unless disclosure of the record would be: **to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual.**"

- (b) Before a disclosure can be made, this exception requires a "showing of compelling circumstances affecting the health or safety of an individual...." therefore, information about a U.S. citizen/national may be released to a person who it can be said can reasonably be expected to care for or assist the U.S. citizen/national. This section of the Act may also be invoked to save the life of the U.S. citizen/national, notwithstanding his or her written affirmation of his or her right to privacy.
 - (c) The Privacy Act requires us to notify individuals in writing whenever we invoke the "health or safety" condition of disclosure with respect to information about them that is otherwise safeguarded by the Act. Therefore, posts are requested to advise the Department (a) whenever they avail themselves of this condition of disclosure and (b) any information re the individual's last known address (the minor's address) so that we may attempt to effect the requisite notification. Questions about the Privacy Act may be directed to CA/OCS/ACS or to CA/OCS/PRI at ASKPRI@state.gov. This mailbox is monitored daily.
- (3) **U.S. Citizen/National or LPR Alleged Perpetrator:** If the consular officer receives a credible report that a U.S. citizen/national or LPR of the United States is responsible for child abuse or neglect involving a U.S. citizen/national child, you should:
- (a) Immediately report the matter to the regional security officer (RSO);
 - (b) Immediately report the matter to CA/OCS, see 7 FAM 1721(c);
 - (c) Information may be shared with other U.S. Government agencies and U.S. state officials as appropriate, in accordance with State-05, the Department's Statement of Routine Uses;

- (d) Information may be shared with host country law enforcement authorities in accordance with State-05, the Department's Statement of Routine Uses;
 - (e) Information may be shared with U.S. law enforcement in connection with a law enforcement activity. This requires a letter or memo from the law enforcement agency specifically requesting information about the individual and citing the law enforcement activity. A copy of the agency request and memo regarding the disclosure should be included in post consular file on the case; and
 - (f) Posts do not, as a rule, request the arrest of a U.S. citizen abroad by host country authorities. That is not to say it has never been done. To take such action is extraordinary and requires concurrence of CA and L.
- c. **Reporting Child Abuse or Neglect:** Consular officers should advise the Department (CA/OCS/ACS) as soon as possible when you are confronted with any cases. You may alert CA/OCS/ACS telephonically or by email or fax, as appropriate, and follow with a cable. CA/OCS duty officers and the CA/OCS duty director may be consulted after normal working hours. The reporting cable should include CASC, ASEC AND KOCI tags.
- d. **Crisis Intervention in Child Abuse and Neglect Cases:** Local authorities are responsible for protection of minors in their jurisdiction, including non-residents. (See 7 FAM 1727.) The Department is prepared to make very aggressive representation to host country authorities in cases where child protection is warranted. Determination as to whether a child is the victim of abuse or neglect is something that is done by professionals in this field. Consular officers generally do not take physical custody of children who are victims of child abuse or neglect. This is a responsibility of the host government. In extraordinary cases where no local structure exists to provide that protection, and post believes the child's life is in immediate danger, see 7 FAM 180 for guidance on providing temporary emergency protection to private U.S. citizens in U.S. Department of State posts abroad. Posts must notify and consult with the appropriate offices in the Department immediately when a U.S. citizen requests temporary refuge, detailing the reasons for the citizen's request and advising about relevant local conditions. The Department generally will approve such requests only when the U.S. citizen/national would otherwise be in danger of serious harm. A U.S. citizen/national granted temporary refuge may remain within post facilities only until appropriate arrangements to secure the citizen's safety are in place.
- e. **Official Personnel and Dependents:** Allegations of abuse or neglect relating to a mission employee, official contractor, dependent spouse or

child, or U.S. military personnel and/or dependents subject to CM authority should be brought to the immediate attention of the regional security officer (RSO) (or directly to the Bureau of Diplomatic Security (DS) and the regional medical officer (RMO). See 3 FAM 1810 Family Advocacy Program (Child Abuse, Child Neglect and Domestic Violence).

- f. **Parental Rights:** Termination of parental rights is rarely exercised, but we have seen it occur in the most egregious cases where the parent is arrested and prosecuted for child abuse by host country authorities. It is often more likely that the host government will take measures to deport the family or terminate their immigration status rather than make determinations about parental authority, custody, etc. Also see Child Abuse Statutes at a Glance: Grounds for Termination of Parental Rights. (See 7 FAM 1728.)
- g. **U.S. Protective Measures: Reception and Resettlement in the United States:** The host government may ask the consular officer what measures the United States will take for protection of the child when the family returns to the United States. This subchapter summarizes the resettlement assistance available from the Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement (HHS/ACF/ORR) (which handles repatriation issues) and its contractor International Social Services (ISS-USA) in cases involving child abuse and neglect. (See 7 FAM 1729 and 7 FAM 390.) We also cross reference the victim assistance and compensation that may be available in child abuse cases. (See 7 FAM 1932.4.)
- i. **Recognizing Child Abuse and Neglect:** Consular officers are not social workers or law enforcement officers, but you are trained observers and do have considerable experience interviewing people. In this subchapter, we discuss the use of these consular skills in welfare and whereabouts visits with children. (See 7 FAM 1724.2d and 7 FAM 1727.)
- j. **Manipulation of Situation by Perpetrators:** Consular officers should be aware that in cases of long-term child abuse, particularly including child sexual abuse, the perpetrator exercises excessive control over the child and takes pleasure in continuing to do so, even after the individual has been arrested. CA/OCS has seen cases in which the arrestee has tried to use code words or symbols to continue to hurt the child. If a perpetrator, particularly a parent, says that the child must have a particular object, for example, do not assume that this is a benign or kind gesture. We have seen multiple cases in which the introduction of a phrase or object to the child resulted in terror. Similarly, the arrestee may try to exercise control over property, including the child's clothing, even from his or her prison cell. The consular officer should not be a party to this manipulation and torment and local authorities should be sensitive to this possibility. Consult CA/OCS for guidance as needed.

(Also see 7 FAM 1728 Parental Authority.)

- k. **Additional Resources:** See also 7 FAM 1730 regarding child exploitation and 7 FAM 1932.4 Crime Victim Assistance: Child Abuse and see the CA/OCS Intranet Consular Victims of Crime Resource Notebook for Child Abuse Guidelines, Background and Referrals. 7 FAM 1721 Exhibit Child Abuse and Neglect Resources provides links to various sources of assistance and reference materials.

7 FAM 1722 AUTHORITIES

(CT:CON-102; 02-27-2005)

- a. **Consular Authority:** The authority for consular protection of U.S. citizen/national minors is derived from a variety of treaties, laws and regulations. The Department, specifically the Bureau of Consular Affairs, has clear authority to ascertain the welfare of U.S. citizen/national minors who are outside the United States particularly when there is any indication that their health and safety could be at risk. Our responsibilities for U.S. citizen minors are all the greater for their inherent vulnerability and need for protection.
 - (1) **TREATIES:** You should be aware of what consular treaties apply in the host country. See Treaties in Force on the Department of State Internet site.
 - (a) Vienna Convention on Consular Relations (VCCR). Article 5(h) and of the VCCR provides that consular functions include protection of the interests of minors of the sending State.

Article 5(h) Vienna Convention on Consular Relations

Consular functions include ...

"(h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the **interests of minors** and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons."

Article 37 of the VCCR concerns host country responsibilities in the event cases of guardianship or trusteeship.

Article 37 VCCR

"If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments."

- (b) **Bilateral Consular Conventions.** See the CA/OCS Intranet page treaties feature for information about bilateral consular conventions. Check Treaties in Force on the Department of State Internet page to confirm the status of a particular treaty.
- (c) The **U.N. International Covenant on Civil and Political Rights** which is in force for the United States provides ...

Article 24

"Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State."

(2) Laws and Regulations on Consular Protection.

- 22 CFR 71.1 Protection of Americans Abroad
- 22 CFR 71.6 Services for Distressed Americans
- 22 U.S.C. 1731 Protection to Naturalized Citizens Abroad
- See 7 FAM 1730 for U.S. laws and regulations concerning exploitation of children.

b. Federal Laws Governing Reporting Child Abuse

- 42 U.S.C. 5119 - Reporting Child Abuse Crime Information
- 42 U.S.C. 13031 - Child Abuse Reporting
- 18 U.S.C. 1169 - Reporting of Child Abuse

- 18 U.S.C. 2258 – Failure to Report Child Abuse

The Child Abuse Act of 1990 (42 U.S.C. 13031) requires that certain professionals in federal facilities report allegations of child abuse whenever any such professional “learns of facts that give reason to suspect that a child has suffered an incident of child abuse.” The provisions of the Act require eight broad categories of professionals to report:

- (1) All health care personnel, including physicians and nurses;
- (2) Psychologists, psychiatrists and mental health professionals;
- (3) Social workers and counselors;
- (4) Teachers and other school professionals;
- (5) Child care workers and administrators;
- (6) Law enforcement personnel;
- (7) Foster parents; and
- (8) Commercial film and photo processors.

In the Department and most posts, individuals in the following positions have a statutory duty to report: RMO, RMO/P, FSNP, RSO, CLO, LEGATT, contract physicians and nurses as well as anyone else who falls within the eight categories listed above. The Child Abuse Act requires reporting whenever covered professionals learn of suspected child abuse “while engaged in a professional capacity on federal land or in a federally operated or contracted facility. Thus, for example, a health care provider treating a person at a health unit who learns or possible abuse against any child must report, no matter where or by whom the abuse allegedly occurred. In any case of uncertainty about whether a situation requires reporting, the covered professional should report. Consular sections should confer with regional medical officers (RMOs) and regional security officers (RSOs) accordingly.

c. **Selected Criminal Law and Child Abuse and Neglect**

- 18 U.S.C. 3509 Child Victims’ and Child Witnesses’ Rights

7 FAM 1723 DEFINITIONS

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Note: The following definitions are based on U.S. law. Local laws of foreign countries may provide different standards of behavior. Some

countries may tolerate corporate punishment or even severe beatings of minors. Consular officers should bring allegations of child abuse or neglect to the immediate attention of the Department, which will provide guidance.

FYI ... Child abuse does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

Child. Any person below the age of eighteen.

Child Abuse. The National Clearinghouse on Child Abuse and Neglect Information provides the following operational definitions for the three main types of child maltreatment. Although any of the forms of child abuse may be found separately, they often occur in combination. Emotional abuse, for example, is almost always present when other forms are identified.

Child Neglect. Characterized by failure to provide for the child's basic needs. The assessment of child neglect requires consideration of cultural values and standards of care as well as recognition that the failure to provide the necessities of life may be related to poverty.

Educational Neglect. Includes the allowance of chronic truancy, failure to enroll a child of mandatory school age in school, and failure to attend to a special educational need.

Emotional Abuse. This includes psychological, verbal, or mental injury such as acts or omissions by the parents or other caregivers that have caused, or could cause, serious behavioral, cognitive, emotional, or mental disorders. In some cases of emotional abuse, the acts of parents or caregivers alone, without any harm evident in the child's behavior or condition, are sufficient to warrant child protective services intervention. For example, practices such as confinement of a child to a dark closet or a cage can be considered emotional abuse.

Emotional Neglect. Includes such actions as marked inattention to the child's needs for affection, refusal of or failure to provide needed psychological care, inadequate supervision, spouse abuse in the child's presence, and tolerance of drug or alcohol use by the child.

Physical Abuse. The infliction of physical injury as a result of punching, beating, kicking, biting, burning, shaking, or otherwise harming a child. The parent or caretaker may not have intended to hurt the child; rather the injury may have resulted from excessive discipline or physical punishment.

Sexual Abuse. This includes fondling a child's genitals, intercourse, incest,

rape, sodomy, exhibitionism, and commercial exploitation through prostitution or the production of pornographic materials (See 7 FAM 1730). Many experts believe that child sexual abuse is the most under-reported form of child maltreatment because of the "conspiracy of secrecy" that so often characterizes these cases.

7 FAM 1724 POST RESPONSIBILITIES

7 FAM 1724.1 Allegations of Child Abuse

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Reports of child abuse that involve a U.S. citizen/national may come to the post's attention through a variety of channels and from a number of sources, including:

- (1) A parent, who may or may not also be a victim of abuse;
- (2) A parent, who may be involved in a parental abduction or custody dispute;
- (3) Local authorities;
- (4) A teacher;
- (5) A cleric;
- (6) A doctor, local hospital, or clinic;
- (7) Another mission employee;
- (8) A concerned neighbor;
- (9) A sibling or other family member; and
- (10) The child.

All allegations of child abuse or neglect should be taken seriously, but it is important to understand that such allegations are not always true.

7 FAM 1724.2 Consular Response to Allegations

(CT:CON-102; 02-27-2005)

- a. Except in a situation involving imminent danger to the child, a consular officer who learns that a U.S. citizen/national child is possibly being

abused or neglected should take the following actions:

- (1) **Ascertain Citizenship Status:** Confirm through post records or other means whether the child is, in fact, a private U.S. citizen/national;
- (2) **Assess Immediate Course of Action:** Depending on the circumstances, you may conclude that there is no time to consult the Department and that you must act, with the help of local authorities. If so, see 7 FAM 1726 Emergency Actions. Alternatively, you may decide that a welfare and whereabouts check is in order. If so, see 7 FAM 1727, but remember that a visit to a household where abuse is occurring can result in more danger to the child or the fleeing of the perpetrator with the child. Consult with the regional security officer (RSO) and regional medical officer (RMO) and other as appropriate; and.
- (3) **Report to the Department:** Initial consultation with the Department about a child abuse or neglect case may be done by phone, email or fax, but should be followed up with a front channel cable. Prepare an immediate cable to CA/OCS/ACS, and include as much factual information as possible. Avoid language that assumes the truth of the allegations or attaches diagnostic labels to any individuals in the case unless there is already credible evidence at hand. Reporting cable should include CASC, ASEC and KOCI tags. Include:
 - (a) Full name, date, and place of birth (DPOB) of child;
 - (b) Passport record or other citizenship information;
 - (c) Names, DPOB'S and citizenship of parents or guardians;
 - (d) Name, Date and Place of Birth and citizenship of the alleged abuser if he or she is not a parent or guardian;
 - (e) Source of allegations of abuse;
 - (f) Brief description of the alleged abuse (Avoid lurid or graphic details);
 - (g) Any medical or psychological treatment provided the child, including names, profession, address & phone numbers, etc.; and
 - (h) Current information on social services and child protective services generally available to foreigners in the host country.

- b. **Recommended Course of Action:** In the same or a follow-up cable, recommend possible courses of actions based on your knowledge of the case and your experience with local officials, etc. Your proposed actions should include a recommended timetable, and could include:
- (1) Perform a welfare/whereabouts check at the child's home or school. (See 7 FAM 1728 and 7 FAM 100);
 - (2) Inform all appropriate local authorities, such as social workers, emergency medical personnel, and law enforcement agencies of the allegations. See 7 FAM 1721 regarding Privacy Act implications;
 - (3) Obtain all possible documentation of the abuse such as statements from persons who have observed abuse or injury to the child, police reports, medical records, photographs, etc.;
 - (4) Assist in finding temporary accommodations; and
 - (5) Assist in repatriation to the United States.
- c. Remember that all actions you propose must be consistent with local law.
- d. **Recognizing Risk Factors For Child Abuse:** Child abuse or neglect can be a single event, but more often, it occurs as a pattern of activity that takes place over time. While no definitive set of characteristics is available to identify all children who are maltreated, the three tables at 7 FAM 1720 Exhibit 1 may be helpful. They are drawn from a matrix of risk indicators (parent behavior and stressors, and child physical characteristics and behavior) created by the State of New York. These tables may help you recognize some of the signs that a child is at risk for various types of maltreatment. You must understand, however, that these factors can exist in families where there is no abuse and that abuse can occur in families without these factors. In the final analysis, competent local authorities, such as physicians, social workers, mental health professionals, teachers and child advocacy experts, must make the determination of whether a child is abused or neglected. The Department recognizes, of course, that in some countries the availability of such resources can be scarce. Also see the U.S. Justice Department publication, **Recognizing When a Child's Injury or Illness Is Caused by Abuse: Portable Guides to Investigating Child Abuse.**

7 FAM 1725 DEPARTMENT'S ROLE IN CHILD ABUSE AND NEGLECT CASES

(CT:CON-102; 02-27-2005)

The Department (CA/OCS, CA/VO, CA/PPT, L/CA and other offices) can assist posts in a number of ways in cases of suspected child abuse or neglect. Such assistance includes, but is not limited to:

- (1) Locating family members in the United States who may be able to help with a victimized U.S. citizen child abroad;
- (2) Providing advisory opinions on post's recommended actions;
- (3) Coordinating repatriation of a child to another family member or for placement by the Department of Health and Human Services (HHS/ACF/ORR) or its contractor, International Social Services (ISS-USA);
- (4) Determining, through the U.S. National Crime Information Computer (NCIC) or other law enforcement sources, whether there are any outstanding warrants against an alleged child abuser
- (5) Obtaining copies of outstanding warrants, indictments, and court orders which may assist a post in persuading local authorities to take action to protect the child;
- (6) Directing foreign officials to authorities in the United States with expertise on child abuse and neglect. This may be particularly helpful to countries that have no or limited social services or domestic protection programs; and
- (7) Escalating action: if a competent local authority fails to take measures to protect a child who is the victim of serious documented abuse, raise the issue at higher levels of the foreign government. Should highest-level action become necessary, the Department will guide the post in taking coordinated action.

7 FAM 1726 EMERGENCY ACTIONS

(CT:CON-102; 02-27-2005)

- a. **Department Authorization:** Because of the sensitivity, privacy concerns and the possible notoriety inherent in alleged abuse cases, and the expertise available in CA/OCS, post actions and recommendations must usually be reviewed and approved in advance by the Department. In the rare case in which the allegations reported lead you to reasonably conclude that the child is in imminent danger of serious physical or emotional harm, you should, after reviewing these guidelines and with the concurrence of the chief of the consular section, immediately inform local authorities, and take whatever other steps are necessary to protect

the safety of the child. See 7 FAM 1721 for Privacy Act guidance.

- b. **Medical Attention:** Posts should facilitate putting the family in touch with available local emergency medical facilities, including any specialized programs for child abuse. (See 7 FAM 300.) If the U.S. citizen/national minor appears at post and is visibly injured, emergency first aid may be provided by embassy/consulate personnel as directed by the Chief of Mission. Embassy/consulate personnel should not/not conduct physical examinations related to allegations by the U.S. citizen of physical abuse (including sexual abuse), unless instructed to do so in explicit guidance from the Department.
- c. **Documenting Injury:** Post should describe the nature and extent of the injury or illness, with as much detail as possible through simple observation and by speaking with the U.S. citizen/national, in the initial report to the Department. Obtain written statements from parent reporting the injury, and the child if possible. Post should take photographs documenting the injury if feasible.
- d. **Physical Custody of the Child:** You may take NOT a child into your physical custody even if another parent requests it, except in a case of extreme necessity as described in 7 FAM 180 and 1727(g).
- e. **At the Scene:** If approved by the Department, you may and should remain at the home or school with the child until appropriate local social services or law enforcement officials arrive on the scene, provided circumstances allow you to do so safely. Accompany the parent and child to the safe haven, if you can do so safely.
- f. **Temporary Accommodations:** You may assist a parent who is attempting to remove the child from the presence of the abusing parent by arranging for accommodations at a government or private charity shelter, or at an appropriate hotel. You may also arrange for transportation to such safe haven.
- g. **Expenses:** If costs are incurred and the family is destitute, see 7 FAM 380 for guidance about Emergency Medical and Dietary Assistance and Repatriation loans. Food and basic toiletries should be provided to a U.S. citizen/national upon request, using EMDA funds. In appropriate circumstances, CA/OCS/PRI will help determine whether and to what extent funds may be available to assist the U.S. citizen/national from U.S. state or federal crime victim compensation programs, from the National Center for Missing and Exploited Children, or through the U.S. Department of Justice OJJDP grant program.
- g. **Temporary Refuge in U.S. Department of State Facilities:** In a case of extreme necessity where no other shelter is available, consider

bringing the child and parent to the post, in accordance with the guidelines in 7 FAM 180. On the basis of the information provided by the U.S. citizen and post, the appropriate Department offices (to include CA/OCS/ACS, L, and the relevant regional bureau) will consult, involving Department principals as appropriate, to ensure a Department decision concerning whether or not the circumstances warrant affording temporary refuge to the U.S. citizen. CA/OCS/ACS will have the lead. The Deputy Secretary or an official designated by him normally will clear the decision. (See 7 FAM 180.)

7 FAM 1727 WELFARE/WHEREABOUTS CHECK IN CHILD ABUSE AND NEGLECT CASES

(CT:CON-102; 02-27-2005)

- a. Once approved by the Department (CA/OCS/ACS), you should normally perform a welfare/whereabouts check at the child's home and/or school. The visit should conform to the following guidelines:
 - (1) If the visit is to the child's home you should:
 - (a) Inform the parent or guardian of the allegation;
 - (b) Do not reveal the source of the allegations, nor go into more detail than absolutely necessary;
 - (c) Explain that when such allegations are received the consular officer needs to ascertain the well being of the child, and that allowing the visit may also be in the best interest of the custodial parent; and
 - (d) You should not enter a private residence without the permission of a person entitled to consent to access under local law, unless you are accompanying a local social services or law enforcement official that has a legal right to enter the premises. If you cannot get consent, notify the Department.
 - (2) If The Visit Is To The Child's School- You should:
 - (a) Advise the principal or other appropriate official that you are concerned about the welfare of the child;
 - (b) Provide only as much detail of the allegation as is necessary to enlist cooperation; and
 - (c) Use the opportunity to discuss with the child's teachers,

school counselor or other school officials any signs of possible abuse they may have noted.

- b. **If There Is A Threat Of Violence**, under no circumstances should you attempt to perform a welfare/whereabouts check in cases where information suggests that the alleged abuser might direct violence toward the child, you or others.
- c. **Indication of Imminent Violence or Danger:** As soon as information indicates that violence might result from or during a visit cease any visible welfare/whereabouts activities. If there appears to be a reasonable risk of imminent danger to the child, inform the local authorities immediately. Advise the Department CA/OCS/ACS and provide recommendations for further action.
- d. **Evidence of Abuse:** If you determine during your visit that there are clear signs of abuse you should immediately inform the Department and request authorization to advise local law enforcement or social services of the case. If you believe the child is in immediate danger of physical or emotional harm, inform local authorities before notifying the Department. If the child has been hurt and given no medical attention, or a young child has been left alone with no indication as to when a responsible adult will return, seek assistance from local social services or police immediately. If at all possible, alert the Department to the situation. Remain with the child until appropriate professionals arrive.
- e. **Follow Up:** Check back to ensure that the local authorities have taken appropriate action to deal with the situation, including, if necessary, removing the child from the home. If local social services are non-responsive, inadequate or unavailable to foreigners, you should seek immediate guidance from the Department.

7 FAM 1728 PARENTAL AUTHORITY

7 FAM 1728.1 Parent(s) Under Arrest

(CT:CON-102; 02-27-2005)

- a. If the child's parent or parents are arrested by local authorities, the child may be taken into temporary foster care or the care of social services. The host country authorities may act under local child protection laws, may make the child a ward of the court or appoint a guardian ad litem for the child. In countries party to the Vienna Convention on Consular Relations (VCCR), the host country must notify the U.S. embassy or consulate when this action is taken. You can verify whether the VCCR is

in force in the host country by checking Treaties in Force on the Department of State Internet page.

Article 37 of the Vienna Convention on Consular Relations provides ...

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty: (b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments.”

- b. If the arrested parent(s) are U.S. citizens/nationals, post should proceed with normal arrest case action as outlined in 7 FAM 400. If possible, one consular officer should handle the arrest aspects of the case and another consular officer should handle the child protection aspects of the case. If a consular officer has already established some rapport with the child, that officer should continue to be responsible for the consular protection activities on behalf of the child so the child, using the single point of contact case officer approach.
- c. Post should provide CA/OCS/ACS with specific information regarding the parent(s)' alleged crimes, including copies of pertinent documents. This instruction also applies if the offending parent(s) is not a U.S. citizen/national.

7 FAM 1728.2 One Parent Arrested, One Parent at Liberty

(CT:CON-102; 02-27-2005)

- a. If one parent is arrested and the other remains at liberty, host country authorities may intercede and follow up with a home study and provide medical care, counseling, shelter, or other services to the remaining parent and child(ren). The consular officer should report such activity to CA/OCS/ACS. This may be done initially by phone, email or fax, but should be followed by cable. Even if the host country provides these services, a consular officer should visit the remaining parent and child(ren).
- b. If the host country does not voluntarily provide these services, the consular officer should make inquiries on behalf of the parent at liberty and the child as appropriate, and put them in contact with whatever

services exist locally. If no local social services of this nature, the consular officer should make appropriate representations to local authorities regarding immediate medical treatment, as needed, shelter, etc. If necessary, post may need to contact the local American community, missionaries, etc., to see if anyone is available to provide temporary assistance pending repatriation of the child.

- c. The consular officer should help contact relatives or friends in the United States who can receive the child and the parent at liberty.

7 FAM 1728.3 Parent(s) Arrested, Child Alone

(CT:CON-102; 02-27-2005)

- a. If one parent is under arrest and the other parent's whereabouts are unknown and cannot be determined, or the other parent has disavowed any interest in the child, the child is in essence de facto abandoned. Consistent with the Vienna Convention on Consular Relations (VCCR), with respect to special consular responsibilities for minors (Article 5,h), post should take action to facilitate the child's repatriation to the United States. When a child comes within the purview of consular authority under Article 5(h) of the VCCR, aggressive efforts should be made to afford the child consular services.
- b. The consular officer should immediately visit the child in the place where the child is being cared for by local authorities or foster family and report to the Department (CA/OCS/ACS) regarding the welfare of the child. An initial report by phone, email or fax should be followed by cable.
- c. CA/OCS/ACS will assist post in trying to locate relatives in the United States who may be able to receive the child. We will also enlist the help of HHS/ACF/ORR and ISS-USA, HHS's contractor to ensure that placement with the relatives is appropriate. Local social services in the United States may require that a home study be conducted under the circumstances. CA/OCS/PRI's Victim Assistance Specialists can also assist in identifying crime victim assistance and compensation available, including multi-disciplinary children's advocacy centers near the repatriation location. (See 7 FAM 1900.)
- d. The consular officer should also make appropriate inquiries to ensure that the child receives medical attention as necessary. See 7 FAM 300 regarding Emergency Medical and Dietary Assistance (EMDA) and 7 FAM 1900 regarding crime victim compensation and assistance. Remember that crime victim monetary compensation for medical expenses, if available from the victim's last state of residence, is usually provided in the form of reimbursement, not an up front payment.

- e. Confirm with local authorities that the child's continued or immediate presence is not needed in connection with the criminal case against the child's parent(s) and that local authorities have no objections to the child leaving the host country. Confirmation should be reported to the Department by cable. If the host country requires transmittal of diplomatic notes on the subject, fax or scan and email copies to CA/OCS/ACS. CA/OCS/PRI's Victim Assistance Specialists can provide detailed guidance about child witnesses as needed if the child's continuing presence or testimony is required.
- f. Post should also request to facilitate retrieval of the child's belongings. Permission of the parent under arrest is not/not required or appropriate. Post should take possession of the child's U.S. passport. If the passport cannot be located, then post may issue a replacement passport. If there are other important documents related to the child, the consular officer should take appropriate steps to safeguard them.

7 FAM 1729 REPATRIATION AND RESETTLEMENT

(CT:CON-102; 02-27-2005)

- a. Post and CA/OCS/ACS can assist in repatriation and resettlement of the child, and parent at liberty. This may include:
 - (1) Locating family members;
 - (2) Assisting in the transfer of private funds through commercial means or OCS Trust (see 7 FAM 300);
 - (3) Requesting expedited repatriation authority and funds from the Department if private funds are not available (see 7 FAM 300);
 - (4) Assisting with transportation arrangements, including transportation to the airport or other points of departure;
 - (5) Locating appropriate escort, as necessary;
 - (6) Arranging HHS/ACF/ORR/ISS-USA reception at Port of Entry, if necessary. This service is available even if family members pay for the transportation;
 - (7) Providing crime victim assistance and compensation information and referral services; and
 - (8) Providing assistance if/when child/parent must return to the host

country to testify.

- b. For the purposes of resettlement and continued care for the child in the United States, HHS/ACF/ORR and ISS-USA advise that they need specific information regarding the crime(s), including:
 - (1) Copies of pertinent documents, including photographs and other evidence of abuse; and
 - (2) Child's medical and school records and copies of any reports/recommendations completed by therapists, physicians, etc. These should include a copy of any psychological, psychiatric and social assessment evaluations.

7 FAM 1721Exhibit Child Abuse and Neglect Resources

(CT:CON-102; 02-27-2005)

U.S. Department of Health and Human Services

National Clearinghouse on Child Abuse and Neglect

Child Abuse and Neglect State Statute Series

Child Abuse Statutes at a Glance: Grounds for Termination of Parental Rights

The Role of Law Enforcement in Response to Child Abuse and Neglect

Crisis Intervention in Child Abuse and Neglect

U.S. Department of Justice

Office for Victims of Crime – Child Abuse

Law Enforcement Response to Child Abuse

Battered Child Syndrome, Investigating Physical Abuse and Homicide

Photo Documentation in the Investigation of Child Abuse

Forming a Multidisciplinary Team to Investigate Child Abuse

Support Resources for Victims of Child Abuse

Child Abuse Reported to the Police

Violent Offenders: Child Victimiziers and Their Victims

Child Sexual Molestation

Recognizing When a Child's Injury or Illness Is Caused by Abuse: Portable Guides to Investigating Child Abuse

What You Should Know About Child Abuse (For Children 6-11)

Child Abuse Victimization

International

Child Abuse - World Health Organization

Child Abuse and Neglect – World Health Organization

International Society for Prevention of Child Abuse and Neglect

NGOs

National Center for Missing and Exploited Children (NCMEC)

National Foundation for Abused and Neglected Children

Regional Child Advocacy Centers, National Children's Alliance

7 FAM EXHIBIT 1723(a)

NEGLECT AND MALTREATMENT Possible Indicators

(CT:CON-102; 02-27-2005)

Parent		Child	
Behavior	Stressors	Physical Characteristics	Behavior
Leaves child unsupervised, especially in dangerous activities for long periods of time	Experienced neglect or maltreatment as a child	Appears malnourished	Begs or steals food
Routinely severely criticizes or threatens child	Unfamiliarity with normal child development and disciplinary techniques	Untreated physical problems: medical, dental, etc.	Constant fatigue, listlessness, falls asleep
Home appears excessively dirty, dangerous, barren, or chaotic	Mental or physical health problems	Clothing is inappropriate for the season	Frequent lateness or absence from school
Isolates child for long periods	Cognitive disability	Appears chronically dirty and unkempt	Child reports not caretaker at home
Gives children inappropriate drink, medicine or other substances	Loss of employment	Developmental lags	Uses alcohol or drugs
Denies child medical treatment	Unable to obtain adequate food, medical care	Failure to thrive	Sucking, biting or rocking beyond toddler hood
Ignores child's bids for affection and attention	Little or no contact with extended family or other adults		Behavior extremes: Compliant, passive, overly shy, needy <i>or</i> Aggressive, demanding, destructive
Appears intoxicated or high	Poor housing		
Fails to provide supervision and guidance of child's behavior	Multiple relocations or changes in household membership		
Keeps child out of sight			

7 FAM EXHIBIT 1723(b)
PHYSICAL ABUSE: Possible Indicators

(CT:CON-102; 02-27-2005)

Parent		Child	
Behavior	Stressors	Physical Characteristics	Behavior
Refuses consent for medical examination/diagnostic testing	Experienced neglect or abuse as a child	Bruises and welts: <i>Appear most often on the face, mouth, lips, thighs, buttocks.</i>	Reports being injured to teachers or others
Fails to obtain medical care for child	Unfamiliarity with normal child development or disciplinary techniques	<i>Caused by</i> slaps, lashes from belts, buckles, branches, rulers	Blames self for abuse: "I was bad and upset Mommy."
Conceals child injuries	Social isolation	Bites: <i>Appear as</i> facing half-circles	Child's explanation of injury is inconsistent
Uses discipline that is extreme or inappropriate for the child's age, sex, or behavior	Family member with chronic physical or mental illness or alcohol problems	Choke marks and abrasions: <i>Appear on</i> neck, wrists, ankles	Wears long sleeves or other concealing clothing (not appropriate for the season.)
Discipline is often cruel	Divorce, separation, remarriage	Burns: <i>Appear as</i> circular marks on palms, soles of feet, buttocks, genital area.	Fears going home or runs away
Unrealistic expectations for child	Multiple changes in household	<i>Caused by</i> cigarettes and cigars	Overly passive or extremely aggressive and angry
Keeps child confined for long periods	Alienation from extended family network	<i>Appear as</i> blistered areas. <i>Caused by</i> immersion in scalding water	Seems to feel no pain with injury or exaggerates small injuries
Discourages social contacts	Overcrowded or inadequate housing	<i>Appear as</i> splatter pattern on face, arms, and torso. <i>Caused by</i> hot substances thrown	Low self esteem
Keeps child out of sight	Loss of employment or other source of income	Fractures	
	Recent immigration or relocation	Unexplained or vaguely explained injuries	

7 FAM EXHIBIT 1723(c)

SEXUAL ABUSE: Possible Indicators

(CT:CON-102; 02-27-2005)

Parent		Child	
Behavior	Stressors	Physical Characteristics	Behavior
History of sexual abuse offense	Experienced sexual abuse as a child or adolescent	Difficulty in walking or sitting	Extreme interest in his or her sexual organs, or those of others
Hypervigilance and repressive about issues related to sexuality	Family member with mental illness	Pain or itching in genital area	Exhibits seductive or promiscuous behavior
Takes child to many different medical facilities	Family member with drug/alcohol problem	Bruises or bleeding in genital or anal area	Overly suspicious, watchful, or fearful of physical exam
Physically intrusive with child	Family member with chronic illness or physical handicap	Venereal disease	Avoids being touched or is overly desirous of physical contact
Acts as though child is much older or younger than age	Social isolation	Wetting or soiling after toilet training has been achieved	Withdraws into fantasy or unusual behavior
Discourages social contacts	Divorced, separated, remarried	Distressing dreams, nightmares, or sleep disturbances	Exhibits regressive behavior
Keeps child confined to home for long periods of time	Little or no contact with extended family members or other supportive adults		Poor academic functioning
Views child as possession			Poor relations with other children
			Pseudo maturity